



COUNTY OF IMPERIAL

PUBLIC HEALTH DEPARTMENT

DIVISION OF ENVIRONMENTAL HEALTH

797 Main Street, Ste. B • El Centro, CA 92243

Phone (760) 336-8530 • Fax (760) 352-1309

ROBIN HODGKIN, M.P.A.
Director

STEPHEN W. MUNDAY, M.D., M.P.H.
Health Officer

November 30, 2009

Megan Fisher
California Integrated Waste Management Board
1001 I Street, P.O. Box 4025
Sacramento, CA 95812-4025



Subject: Issuance of Amended Notice and Order No. EA-2008-04 for the Brawley Solid Waste Facility (13-AA-0008)

Ms. Fisher:

On November 30, 2009, the Imperial County Division of Environmental Health, Local Enforcement Agency (LEA) issued the attached Amended Notice and Order No. EA-2008-04 to the Imperial County Department of Public Works, owner and operator of the Brawley Solid Waste Site. The Notice and Order was issued pursuant to Sections 44106 and 44306 of the Public Resources Code.

Should you have any questions, please do not hesitate to contact me at (760) 336-8530.

Sincerely,

Lars Seifert, REHS
Local Enforcement Agency

cc: Paul Saldana, CIWMB (w/enclosure)
Scott Humpert, CIWMB (w/enclosure)

Encl: Amended Notice and Order EA-2008-04



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Health Officer

November 30, 2009

William Brunet, P.E., Director
County of Imperial
Department of Public Works
155 South 11th Street
El Centro, CA 92243

Subject: Amended Notice and Order No. EA-2008-04 for the Brawley Solid Waste Site,
Facility No. 13-AA-0008

Mr. Brunet:

Pursuant to the Public Resources Code, Section 44106, the Local Enforcement Agency (LEA) is authorized to mandate a compliance schedule to ensure that diligent progress will be made at the Brawley Solid Waste Site to properly close the site and bring the facility into compliance with Division 30 of the Public Resources Code and Title 27 of the California Code of Regulations (CCR).

On November 28, 2008, the LEA issued Notice and Order EA-2008-04 to the Imperial County Department of Public Works revoking the Brawley Solid Waste Facility Permit for failure to submit an approved Final Closure and Postclosure Maintenance Plan and initiate closure of the site as required by Sections 21110 and 21780 of Title 27, CCR and Amended Notice and Order EA-2007-01. Moreover, as noted on monthly inspection reports, the Imperial County Department of Public Works still has not submitted an approved Final Closure and Postclosure Maintenance Plan for the site since the permit was revoked one year ago, nor has your Department initiated closure activities at the site as directed in Notice and Order EA-2008-04.

Although the LEA cannot conclude that the County has demonstrated diligent progress over the past year to complete the closure of the site, it is recognized that local contracting changes and regulatory permitting processes by State and Federal agencies have resulted in substantial delays in the completion of closure activities at the Brawley

Solid Waste Site. As noted in the written extension request submitted to the LEA on October 22, 2009, the operator has initiated discussions with applicable State and Federal regulatory agencies and has recently completed a bidding process to contract a consultant to complete the permitting necessary to initiate closure activities at the site.

Given these outstanding permitting issues for closure of the Brawley Solid Waste Site, the LEA has issued a modified compliance schedule in the attached Amended Notice and Order EA-2008-04. Failure to comply with any portion of this enforcement order will result in the LEA seeking civil penalties and/or injunctive relief to enforce the attached order pursuant to the Public Resources Code.

If you have any questions, please do not hesitate to contact me at (760) 336-8530.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lars Seifert', with a stylized flourish at the end.

Lars Seifert, REHS
Local Enforcement Agency

Attachment: Amended Notice and Order No. EA-2008-04

cc: Supervisor Wally Leimgruber, Chairman of the Board of Supervisors
Supervisor Gary Wyatt, District 4
Robin Hodgkin, Director, Department of Public Health
Jeff Lamoure, Deputy Director, Division of Environmental Health
Paul Saldana, California Integrated Waste Management Board
Megan Fisher, California Integrated Waste Management Board
Cliff Raley, Regional Water Quality Control Board
Brad Poiriez, Air Pollution Control District

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IMPERIAL COUNTY
DIVISION OF ENVIRONMENTAL HEALTH
797 MAIN STREET, SUITE B, EL CENTRO, CA 92243
LOCAL ENFORCEMENT AGENCY

IN THE MATTER OF:

Brawley Solid Waste Site (Facility No. 13-AA-0008),

Described by the following APN's:

046-030-004, 046-030-005, 046-030-012

) **AMENDED NOTICE AND ORDER**

) **NO. EA-2008-04**

) Public Resources Code Division 30, Sections

) 44106 and 44306. California Code of Regulation

) Title 27, Sections 21110 and 21780.
)
)

To: County of Imperial

William S. Brunet, Director

Imperial County Department of Public Works

155 South 11th Street

El Centro, CA 92243

PLEASE TAKE NOTICE:

On February 16, 2007, the Local Enforcement Agency (LEA) issued Notice and Order EA-2007-01 to the Imperial County Department of Public Works to suspend the Solid Waste Facility Permit at the Brawley Solid Waste Site for failure to correct chronic recurring daily and intermediate cover violations at the facility. The operator was also directed to submit an approved Final Closure and Post-Closure Maintenance Plan on or before February 2, 2008 to comply with Section 21780 of Title 27 of the California Code of Regulations (CCR). Further notice was given to the operator that if the Brawley Solid Waste Site remained inactive for twelve (12) consecutive months, the Solid Waste Facility Permit would be revoked and the Department of Public Works would be required to immediately begin closure activities at the site.

Notice and Order EA-2007-01 was amended by the LEA on February 8, 2008 to provide a requested two hundred and seventy (270) day extension to complete the Final Closure Plan and CEQA

1 review process for the proposed closure of the site on or before October 29, 2008. The operator failed to
2 comply with this stipulated deadline as directed by Amended Notice and Order EA-2007-01.

3 On November 20, 2008, the LEA issued Notice and Order EA-2008-04, which revoked the Solid
4 Waste Facility Permit for the Brawley Solid Waste Site pursuant to Section 44106(b) and 44306 of the
5 Public Resources Code for failure to submit an approved Final Closure and Post-Closure Maintenance
6 Plan and initiate the closure of the site as required by 27 CCR 21110. The final shipment of waste to the
7 site was February 10, 2007.

8 Notice and Order EA-2008-04 directed the operator to submit an approved Final Closure and
9 Post-Closure Maintenance Plan on or before May 19, 2009 and to complete the final closure of the
10 Brawley Solid Waste Site prior to October 29, 2009. As noted on LEA inspection reports and as
11 acknowledged by the operator in the extension request submitted to the LEA on October 22, 2009, a Final
12 Closure and Postclosure Maintenance Plan has not yet been approved by the LEA, Regional Water
13 Quality Control Board, or the California Integrated Waste Management Board as the operator has failed
14 to provide adequate design plans to address drainage and erosion protection controls for the final cover
15 along the New River. On July 20, 2009, the operator issued a Request for Proposal for the completion of
16 the final closure design and has provided the LEA with an updated time schedule for closure of the site
17 based on consultant submittals.

18 The LEA has the authority to order a compliance schedule to ensure progress will be made to
19 bring the facility into compliance pursuant to PRC 44106(a). Furthermore, Section 45011 requires any
20 person, upon order of the LEA, to take necessary corrective actions at a solid waste facility to bring the
21 facility into compliance with Division 30 of the Public Resources Code.

22
23 **WHEREAS**, the Brawley Solid Waste Site (Solid Waste Facility Number: 13-AA-0008) is a
24 solid waste disposal facility with a revoked permit that is located at 4700 Brawley Dump Road, Brawley,
25 California (Assessor Parcel Numbers: 046-030-004, 046-030-005, and 046-030-012);

26 **WHEREAS**, the Imperial County Local Enforcement Agency has the authority to act in the
27 capacity of an enforcement agency (EA) for this facility pursuant to Public Resources Code Section
28 43200 et seq., and is so acting;

1 **WHEREAS**, the Imperial County Department of Public Works has demonstrated a recurring
2 pattern of noncompliance with final orders issued by the LEA pursuant to Title 27 of the California Code
3 of Regulations Sections; and

4 **WHEREAS**, the Imperial County Department of Public Works has failed to submit an approved
5 Final Closure and Postclosure Maintenance Plan and initiate closure activities at the Brawley Solid Waste
6 Site as directed in Amended Notice and Order EA-2007-01 and Notice and Order EA-2008-04.

7
8 **THEREFORE, YOU ARE HEREBY GIVEN NOTICE:**

9 Pursuant to PRC Section 44106 and 44306 and final Notice and Order EA-2008-04, the Solid
10 Waste Facility Permit for the Brawley Solid Waste Site shall remain **REVOKED** by the Local Enforcement
11 Agency and closure of the site shall occur within the compliance deadlines specified below:

12
13 **YOU ARE HEREBY ORDERED TO DO THE FOLLOWING:**

- 14 1. Maintain the cessation of operations at the Brawley Solid Waste Site;
15 2. Install the perimeter landfill gas monitoring probe network and fully implement the
16 approved Landfill Gas Monitoring Plan by December 31, 2009.
17 3. Submit an approved Final Closure and Postclosure Maintenance Plan on or before
18 October 18, 2010;
19 4. Initiate closure construction at the site on or before April 18, 2011; and
20 5. Submit the final certification of closure and CQA report for the Brawley Solid Waste
21 Site prior to October 18, 2011.

22
23 **FURTHER NOTICE:**

24 **PURSUANT TO PRC SECTIONS 45011, 45014, AND 45023**, if the above actions are not
25 completed or complied with by the specified dates, the Local Enforcement Agency may:

- 26 1. Petition the superior court for injunctive relief to enforce this Notice and Order [PRC
27 Section 45014].
28 2. Petition the superior court for civil penalties in an amount not to exceed \$10,000 per day
29 for each violation [PRC Section 45023 and 45024]

1 3. Impose administrative civil penalties in an amount not to exceed \$5,000 per day for each
2 day that the facility fails to achieve compliance with the time frames specified above
3 [PRC Section 45011]
4

5 In the event that the time frames for completion of the above-specified activities cannot be adhered to
6 due to adverse weather or other factors not in the control of the operator, the LEA may extend the time
7 frames based upon those specific factors provided by the operator in writing. Any such extension to the time
8 frames or other amendment to this Notice and Order shall be in the form of an Amended Notice and Order.

9 Failure to remedy the aforementioned violation(s) by the required date(s) may result in the LEA
10 requesting CIWMB to expend available funds to perform any cleanup, abatement, or remedial work
11 required under the circumstances set forth in PRC section 45000 which, in the judgment of the CIWMB,
12 is required by the magnitude of endeavor or the need for prompt action to protect public health and safety
13 or the environment. If the CIWMB or LEA expends funds to perform any cleanup, abatement, or
14 remedial work, the CIWMB or LEA may seek cost reimbursement from the operator or owner pursuant to
15 PRC section 45000(d).

16 Nothing in this Notice and Order shall constitute or be construed as a satisfaction or release from
17 liability for any conditions or claims arising as a result of past, current, or future operations.
18 Notwithstanding compliance with the terms of this Notice and Order, the owner and operator may be
19 required to take further actions as necessary to protect the public health, safety, or the environment.

20 The LEA shall not be liable for injuries or damages to persons or property resulting from acts or
21 omissions by the owner or operator or related parties in carrying out activities pursuant to this Notice and
22 Order, nor shall the LEA be held as a party to any contract entered into by the owner or operator or their
23 agent(s) in carrying out activities pursuant to this Notice and Order.

24 This Notice and Order is supported by the accompanying declaration of Lars Seifert.

25 This Notice and Order does not relieve the owner or operator from complying with all other local,
26 state, and federal requirements, nor does it preclude the LEA or the CIWMB from taking any and all other
27 actions allowed by law.

28 This Notice and Order may only be amended in writing by an appropriate representative of the
29 LEA.

PLEASE TAKE NOTICE THAT:

Pursuant to Title 14 CCR Section 18304(b)(8), the person or entity named in this Notice and Order has the right to appeal this Amended Notice and Order to the Hearing Panel [PRC Section 44307]. A request for a hearing before the Hearing Panel must be filed within 15 days from the date of receipt of this Notice and Order [PRC Section 44310].

This Notice and Order is issued as of the date set forth below.

Dated: 11/30/09



Lars Seifert, REHS

Local Enforcement Agency

Imperial County Public Health Department,

Division of Environmental Health

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BEFORE THE
IMPERIAL COUNTY DIVISION OF ENVIRONMENTAL HEALTH
LOCAL ENFORCEMENT AGENCY

IN THE MATTER OF:

Brawley Solid Waste Site (Facility No. 13-AA-0008)

Described as APNs: 046-030-004, 046-030-005 and

046-030-012

County of Imperial

William S. Brunet, P.E., Director

Imperial County Department of Public Works

) **AMENDED NOTICE AND ORDER**

) **NO. EA-2008-04**

) **DECLARATION OF LARS SEIFERT**

I, Lars Seifert, declare that,

1. I am currently, and was at all times referenced herein, employed as a Registered Environmental Health Specialist by the Imperial County Public Health Department, Division of Environmental Health, which serves as the Local Enforcement Agency (LEA) for the County of Imperial, as authorized by the California Integrated Waste Management Board.
2. I have personal knowledge that the Brawley Solid Waste Site is in violation of the California Public Resources Code, Division 30, and Title 27 of the California Code of Regulations as described in the attached Amended Notice and Order EA-2008-04.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: 11/30/09



Lars Seifert, REHS
Local Enforcement Agency